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E.1 Example Notice of Intent (NOI)

National Oceanic and Atmospheric Administration (U.S. Department of Commerce) and U.S. Fish and Wildlife Service (U.S. Department of the Interior)

INTENT TO PREPARE DRAFT RESTORATION PLAN AND PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT, COMMENCEMENT BAY RESTORATION PLAN, PIERCE COUNTY, WASHINGTON

LEAD AGENCIES: National Oceanic and Atmospheric Administration and U.S. Fish and Wildlife Service

ACTION: Notice of Intent

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370d (NEPA), as implemented by the Council of Environmental Quality regulations (40 CFR Parts 1500-1508), the National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service announce their intent to prepare a draft Restoration Plan (RP) and Programmatic Environmental Impact Statement (EIS) for the Commencement Bay Natural Resource Damage Assessment (CB/NRDA). The National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service will be joint lead agencies for this RP/EIS.

DATES: The lead and cooperating agencies and tribes invite and encourage agencies and the public to provide written comments on the proposed RP/EIS throughout the scoping process to ensure that all relevant environmental issues are considered. Persons or organizations wishing to submit scoping comments should do so no later than October 14, 1994.

ADDRESSES: Written comments on the scope of the RP/EIS, questions about the RP/EIS, requests for inclusion on the RP/EIS mailing list and requests for copies of any documents associated with the draft RP/EIS should be directed to: Commencement Bay EIS, CENPS-EN-PL-ER, U.S. Army Corps of Engineers, P.O. Box 3755, Seattle, Washington 98124-2255, ATTN: Patrick Cagney, project manager.

FOR FURTHER INFORMATION CONTACT: Patrick Cagney, project manager, Seattle District, U.S. Army Corps of Engineers, telephone (206) 764-3642; telefax (206) 764-4470.

SUPPLEMENTARY INFORMATION:

Background

The CB/NRDA is being conducted by federal and state agencies and tribal governments identified as Natural Resource Trustees for the Commencement Bay environment pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq. (CERCLA), the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701-2761 (OPA), and other applicable law. The Trustees will be developing a RP/EIS to help guide restoration actions associated with the CB/NRDA. The RP/EIS will develop a set of preferred restoration alternatives and a restoration management plan and will evaluate the environmental impacts of the proposed plan. The Programmatic EIS will also incorporate and build upon existing information developed in the Commencement Bay Cumulative Impact Study (CB/CIS) (published 6/93) and information and policies developed through the CB/NRDA restoration planning process. While this RP/EIS will be a document prepared under NEPA guidelines, it is anticipated that the RP/EIS will also meet the requirements of the Washington State Environmental Policy Act, Chapter 43.21C RCW (SEPA).

The goal of the RP/EIS is to develop a restoration management plan that will benefit the natural resources of Commencement Bay that have been injured as a result of the release of hazardous substances or the discharge of oil. There are two objectives associated with this goal that will help address the injured trust resources. The first is to provide within the immediate Commencement Bay environment a diversity of sustainable habitat types using a landscape perspective to directly benefit the injured resources. The second objective, within the larger study area, is to provide additional or alternative resource and habitat restoration or replacement opportunities, or to acquire the equivalent of the affected resources or habitats for those injured resources that will require additional efforts to achieve or promote restoration. Because the planning, selection, design, construction, monitoring and funding of specific restoration measures will unfold over a period of many years, a tiered EIS process has been selected for environmental compliance.

Alternatives

A preliminary list of alternatives is being developed and will be described in initial scoping documents sent to all agencies, organizations, and individuals on the RP/EIS mailing list, along with a listing of significant issues identified by agencies and public comment. The scoping document will include a brief discussion regarding the basis for the study, information concerning the alternative areas evaluated for restoration, restoration alternative strategies, and the programmatic nature of the study at each of the alternative areas. This information would be supplemented with graphics delineating the areas of interest and alternative configurations.

EIS Content

The draft RP/EIS will document restoration planning at a programmatic level consistent with the results of scoping. Restoration planning will focus upon the "key resources" identified through the CB/NRDA process as having been injured due to releases of hazardous substances or discharges of oil. Beginning with the information developed through the CB/NRDA restoration planning process and the CB/CIS, the draft RP/EIS will identify habitat types and functions significant for important life stages of one or more groups of key resources or of representative individual key resource species.

The RP/EIS will effectively serve as a menu of restoration alternatives to function as a framework for managing the Commencement Bay NRDA Restoration Program.

The Alternative section will be based on the following:

- Alternatives (includes discussion and establishment of the baseline condition, no action, and future without condition)
- Types of restoration
- Alternative sites (characteristics/constraints)
- Alternative restoration scenarios (putting alternative types together with alternative sites)

The RP/EIS will also include other elements and address other concerns as needed to complete a fully responsive NEPA and SEPA document. The format recommended by CEQ regulations (40 CFR 1502.10 et seq.) and SEPA Rules (WAC 197-11-430) will be followed as appropriate.

Cooperating Agencies

Several agencies have been identified as cooperating agencies. They are: the Puyallup Tribe of Indians, the Muckleshoot Indian Tribe, the Washington Department of Ecology, the U.S. Army Corps of Engineers, and the Environmental Protection Agency. The Seattle District Corps of Engineers has been designated by the lead agencies as being the primary agent preparing the RP/EIS.

Study Area

The study area for the RP/EIS includes Commencement Bay (that portion of Puget Sound enclosed within a line extending from Brown's Point to Point Defiance); the watershed of Commencement Bay and its main tributaries (the Puyallup/Carbon River, the White River, Hylebos Creek, Wapato Creek, Puget Creek); and Puget Sound coastal areas adjacent to Commencement Bay (southern Vashon and Maury Islands, Dumas Bay). Within the study area, the RP/EIS will focus on those areas that serve as habitat for or otherwise support the natural resources of Commencement Bay potentially injured as a result of releases of CERCLA hazardous substances and discharges of oil.

Request for Comments

Your views as to the scope and content of the environmental information needed for the RP/EIS are important to the preparation of the study report. To be most helpful, the scoping comments should clearly describe specific environmental issues or topics which the commenter believes the document should address. This Notice of Intent will be mailed to Federal, State, and local agencies, organizations, groups and individuals identified during the CB/NRDA process.

Scoping meetings will be scheduled to provide the public with an opportunity to engage in discussions regarding the RP/EIS. The times and locations of the scoping meetings will be announced at a later date. Notices will be sent to all agencies, organizations, and individuals on the RP/EIS mailing list.

The lead agencies expect to complete preparation of the RP/EIS and have review copies of it available by March 1995.

E.2 Example Notice of Availability (NOA)

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

August 1993 Tampa Bay Oil Spill: Notice of Availability and Request for Comments on a Draft Damage Assessment and Restoration Plan¹

AGENCIES: National Oceanic and Atmospheric Administration (NOAA), Commerce, United States Department of the Interior (DOI), and Department of Environmental Protection, State of Florida

ACTION: Notice of availability of a draft damage assessment and restoration plan and of a 45-day period for public comment on the plan.

SUMMARY: Notice is given that the draft document entitled "Draft Damage Assessment and Restoration Plan for the 1993 Tampa Bay Oil Spill, Volume I - Ecological Injuries" is available for public review and comment. The document represents the first part (Volume I) of the draft damage assessment and restoration plan (Draft DARP) being developed by the State and Federal natural resource trustees to assess natural resource damages for the injury, loss, destruction and lost use of natural resources that resulted from the oil spill in Tampa Bay, Florida, following the August 10, 1993 collision of certain vessels in Tampa Bay. Volume I presents the methods proposed for use to restore and compensate for natural resources injuries and losses of an ecological nature. Volume I of the Draft DARP is consistent with Section 1006 of the Oil Pollution Act of 1990 (OPA), Chapter 376 of the Florida Statutes and the guidance provided by the Natural Resource Damage Assessment regulations at 43 CFR Part 11 (1994), as amended. Public review of this draft plan, as announced by this notice, is consistent with Section 1006 of OPA and 43 CFR 11.32(c) of those regulations.

DATES: Comments must be submitted in writing on or before [45 days from publication in the Federal Register].

¹ This restoration plan would now be referred to as the Draft Restoration Plan/EA. Circle, Rm. 214, Tampa, FL 33619. Volume I is also available for public review at the St. Petersburg Public Library, Main Library Reference Dept., 3745 9th Ave N., St. Petersburg FL during normal library hours. Written comments on the plan should be sent to either Jim Jeanson of the NOAA Damage Assessment Center or to Jane Urquhart-Donnelly of the DEP Office of Coastal Protection at the same addresses as listed above.

ADDRESSES: Requests for copies of Volume I of the Draft DARP should be sent to Jim Jeansonne of the National Oceanic and Atmospheric Administration (NOAA) Damage Assessment Center, 9721 Executive Center Drive N., Suite 134, St. Petersburg, FL 33702, or Jane Urquhart-Donnelly of the Florida Department of Environmental Protection (DEP), Office of Coastal Protection, 8407 Laurel Fair

FOR FURTHER INFORMATION CONTACT: Jim Jeansonne of the NOAA Damage Assessment Center, (813) 570-5391 or Jane Urquhart-Donnelly, (813) 744-6462.

SUPPLEMENTARY INFORMATION: On August 10, 1993, at approximately 5:45 a.m., the tank barge "OCEAN 255" and the tank barge "B-155" collided with the freighter "BALSA 37" just south of Mullet Key near the entrance of Tampa Bay, Florida. The OCEAN 255 caught fire upon impact and burned for approximately 18 hours. During that period, approximately 32,000 gallons of Jet A fuel, diesel, and gasoline were discharged from the OCEAN 255 into lower Tampa Bay. The B-155 was also damaged by the collision and discharged approximately 330,000 gallons of #6 fuel oil in the same vicinity. A number of different natural resources were eventually exposed to oil as a result of these discharges, including mangroves, seagrasses, salt marshes, birds, sea turtles, shellfish beds, bottom sediments, sandy shorelines and the estuarine water column, with a variety of direct injuries and lost uses of natural resources documented to have resulted from such exposure.

The incident is subject to the authority of OPA, 33 U.S.C. 2701-2761 (OPA), the Federal Water Pollution Control Act, 33 U.S.C. 1321 *et seq.* (FWPCA) and the Florida Pollutant Discharge and Control Act, Fla. Stat. 376.121. NOAA, the U. S. Department of the Interior, and the Florida Department of Environmental Protection are trustees for natural resources pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*, OPA, the FWPCA, subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600-300.615, and, in the case of the Florida Department of Environmental Protection, the Florida Pollutant Discharge and Control Act, Fla Stat. 376.121 (1994), and in the case of the Federal trustees, Executive Order 12777.

These State and Federal agencies (the co-trustees) previously determined that natural resources and resource services subject to their trust authority were injured or lost as a result of the August 1993 oil spill and that the injuries and losses were sufficient to warrant proceeding with an assessment of natural resource damages under the above authorities. That determination is documented in the "Preassessment Screen and Determination for August 10, 1993 Tampa Bay, Florida Oil Spill", of November 2, 1993. Volume I of the Draft DARP presents the assessment and restoration plan developed by the co-trustees to address the direct injuries to natural resources and the interim losses of ecological resource services caused by the spill. Volume I evaluates restoration alternatives for each category of ecological injury or loss and defines compensation for resource injuries based on necessary or appropriate restoration actions, wherever possible. Further, the draft plan contemplates the use of simplified, cost-effective procedures and methods to document and quantify resource injuries and losses, as feasible and appropriate to specific resource injuries or losses. Accordingly, proposed

methods and procedures include the use of relevant scientific literature, scientifically based models, and focused injury determination or quantification studies, alone or in combination, depending on the specific injury or loss category.

The August 1993 oil spill also disrupted publicly important human uses of natural resources, however, assessment methods and restoration plans addressing public compensation for those lost natural resource uses will be outlined in the second part (Volume II) of the Draft DARP, currently being developed by the co-trustees.

Interested members of the public are invited to request a copy of Volume I of the Draft DARP from and to submit written comments on the plan to either Jim Jeanson of NOAA's Damage Assessment Center, or to Jane Urquhart-Donnelly, at the same addresses given above. All written comments will be considered by NOAA, the Department of the Interior, and the Florida Department of Environmental Protection in finalizing the assessment and restoration plan for the ecological injuries and losses and will be included in the Report of Assessment issued at the conclusion of the assessment process.